

February 14, 2019

**Via email:**

J. Ader

Muckrock

email: 68446-38856065@requests.muckrock.com

**Re: Public Records Act Request received February 4, 2019**

Dear J. Ader:

This letter is in response to your public records request dated February 3, 2019 and received by the Fremont Police Department on February 4, 2019 for documents related to the Tesla Pilot program including: contract, MOUs, emails, manuals, spec sheets, brochures, and presentations.

To the extent that your request seeks information that falls within the attorney-client privilege, deliberative process privileges, attorney work product and pending and active litigation exception, these records are exempt from disclosure under Government Code Sections 6254(b), 6254(k) and 6255 and Evidence Code Sections 1040, 952, and 954. In addition, drafts, notes or intra-agency memoranda are also exempt from disclosure under Government Code Section 6254(a) and have not been included.

To the extent the requests seek documents that are copyrighted work or contain copyrighted work, federal law limits the reproduction by the City under the Copyright Act, 17 USC § 101 *et seq.* The City requires a waiver or permission from the copyright owner before reproducing copyrighted works. To the extent the request seeks documents containing business or industry information protected by the trade secret privilege, the City cannot disclose the information pursuant to Civil Code §3426.1.

To the extent that the request seeks a record or information where the public interest in accessing these records is clearly outweighed by the public's interest in protecting privacy rights, that record will not be disclosed pursuant Government Code section 6255.

To the extent that the requests seek information that is not contained in identifiable records, the Public Records Act does not impose a duty on the City to create a record to respond to your request. To the extent that the requests seek drafts of documents, these records are exempt from disclosure under Government Code section 6254(a). *Sander v State Bar of California* (2018) 26 Cal.App.5th 651.

Notwithstanding the foregoing, the City has located documents that the City believes may be responsive to your requests or of interest to you that the City can disclose. Some documents regarding the purchase of the Tesla vehicle and work to convert the vehicle to law enforcement use are available on the City's website at <https://www.fremontpolice.org/ElectricVehicle>. The City does not have any manuals or spec sheets regarding the Tesla Vehicle. The City has



J. Ader  
February 14, 2019  
Page 2 of 2

approximately 264 pages of redacted emails and other documents. If you would like copies, please send the City a check for \$26.40 plus \$19.05 for mailing the copies to Massachusetts to obtain copies of the abovementioned documents.

If there are records you feel should be disclosed notwithstanding this response, or you would like to discuss your requests and this response further, please feel free to contact me at (510) 284-4030.

Very truly yours,

HARVEY E. LEVINE  
City Attorney



BRONWEN LACEY  
Senior Deputy City Attorney

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